



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 25<sup>th</sup> day of April, 2002

Essential air service at

**DECATUR, ILLINOIS**

under 49 U.S.C. 41731 et seq.

Docket OST-2002-11859 -3

Served: April 30, 2002

**ORDER PROHIBITING SUSPENSION OF SERVICE  
AND REQUESTING PROPOSALS FOR REPLACEMENT SERVICE**

**Background**

On March 15, 2002, Trans States Airlines, Inc., d/b/a American Connection, filed a 90-day notice of its intent to suspend its unsubsidized scheduled service at Decatur, Illinois, as of June 13, 2002. Trans States is the only carrier providing scheduled service at Decatur, where it currently operates two nonstop round trips to St. Louis each weekday and weekend with 30-seat Jetstream 41 aircraft.<sup>1</sup> Trans States says that it cannot serve Decatur profitably because of the proximity of Bloomington and Springfield, and more specifically cites the low-fare service available at Bloomington.<sup>2</sup> Trans States therefore requests that it be provided with subsidy under the essential air service program, **and** proposes to increase its service to three nonstop round trips to St. Louis each weekday and four each weekend with Jetstream 41s at **an annual** subsidy of \$1,037,967.<sup>3</sup>

<sup>1</sup> See Appendix A for a map. Prior to the September 11 terrorist attacks, Trans States had been operating three nonstop round trips each weekday and weekend to St. Louis with Jetstream 41s. Trans States says that the "effective date" of its notice was March 11 and that the **90-day** period ends on June 9. Regardless of **Trans States'** statement, the notice was not filed with the Department until March 15, and the 90-day period therefore ends on June 13.

<sup>2</sup> AirTran Airways, a low-fare carrier, operates DC9 jets between Bloomington, about a 40-mile drive north from Decatur, and Atlanta. Bloomington also offers regional jet services to Chicago and Detroit and turboprop services to Minneapolis (via Peoria) and St. Louis. In addition, Decatur's residents also have access to service at two other nearby airports: Springfield, **40** miles to the west, which offers turboprops to Chicago, Memphis and St. Louis; and Champaign/Urbana, 50 miles to the northeast, which offers regional jets to Chicago and turboprops to Detroit and St. Louis.

<sup>3</sup> Under 49 **U.S.C.** 41734(e), a carrier providing unsubsidized service becomes eligible for subsidy if the Department, while seeking replacement service, requires the carrier to continue providing service beyond the end of the 90-day notice period. In this case, Trans States is essentially proposing to replace itself -

## **Essential Air Service Determination**

Decatur's essential air service determination, **as** established by Order 80-2-124, February 25, 1980, required at least two daily round trips to both St. Louis (nonstop) and Chicago (no more than one intermediate stop) providing a total of 67 inbound and **67** outbound seats.<sup>4</sup>

Until December 1999, Decatur received service to Chicago as well **as** St. Louis. However, by Order 99-12-21, December 22, 1999, the Department modified Decatur's essential air service determination to require service to one hub, either St. Louis or Chicago, rather than to both, and allowed Great Lakes Aviation, Ltd., which had filed a 90-day notice of intent to discontinue its unsubsidized service to Chicago, to discontinue that service since Trans States' unsubsidized service to St. Louis would meet Decatur's modified determination.

On April 5, 2000, however, the President signed into law the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, P.L. 106-181, also known **as** AIR-21. Under a provision contained in that new law, all Department orders issued after September 30, 1999, that modified communities' essential air service determinations became "null and void." Moreover, as of April 5, the Department could no longer modify determinations to levels below those in effect as of December 29, 1988.

The Department's modification of Decatur's essential air service determination in Order 99-12-21 was therefore nullified, and the community's determination remained that in effect **as** of December 29, 1988, which had been established by Order 80-2-124 and is described above. Because Decatur's determination continued to guarantee service to Chicago and the community was without it, we requested proposals from carriers interested in providing Decatur-Chicago service by Order 2000-4-21, April 19, 2000, but received none.

## **Community Comments**

On March 29, 2002, the Decatur Park District filed comments in response to Trans States' notice and proposal.<sup>5</sup> Decatur generally supports Trans States' proposal, but requests a **fifth** weekend round trip. The community states that Trans States' current schedule of two round trips each weekday and weekend, offering 60 seats in each direction, does not meet its seating requirement. In this regard, the community disputes the Department's statement of its seating guarantee **as 67** seats a day, and contends that, just as AIR-21 preserved the community's dual-hub designation, AIR-21 also fixed its seating guarantee at no less than 80 seats a day, **as** established by

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i.e., to replace its current unsubsidized service with a higher level of subsidized service. **As** discussed below, replacement proposals are usually confidential until the end of the 20-day period that we provide for the filing of such proposals. However, Trans States has chosen to include its proposal as part of the 90-day notice that it filed in the public docket and served on the community.

<sup>4</sup> Order 80-2-124 required capacity sufficient to accommodate 40 inbound and outbound passengers. Under the 60-percent load-factor standard subsequently established by the Airport and Airway Safety and Capacity Expansion Act of 1987, P.L. 100-223, the number of guaranteed seats is therefore 67:  $40/0.60 = 66.7$ . The community's dispute with this figure is discussed below.

<sup>5</sup> The Decatur Park District is a municipal corporation that owns and operates the Decatur Airport.

Order 80-2-124. Decatur therefore urges the Department to authorize subsidy for, and require Trans States to implement, the higher service level it requests as soon **as** possible, before the end of the 90-day notice period.

### Decision

Trans States' suspension of service would leave Decatur without **any** scheduled air service. In accordance with 49 U.S.C. 41734, we will therefore prohibit Trans States from suspending service at the community. In doing so, we will require **Trans** States to continue operating two nonstop round trips to St. Louis each weekday and weekend. We recognize that 60 seats represents a slight shortfall ~~from~~ the community's seat guarantee of 67 on weekdays, and a considerable one from 134 on weekends. Nonetheless, in view of the community's recent traffic levels, Trans States' current schedule affords sufficient capacity in the short term. We will address the community's long-term service levels in the context of the carrier selection case.

Even before the September 11 attacks, Decatur-St. Louis traffic had been steadily declining over several years. During the 12 months ended August 31, 2001 -- the period immediately before the attacks -- Decatur-St. Louis traffic averaged 37.2 enplanements a day, which represented a 21.6 percent decrease from 47.4 a day during the preceding 12-month period and a 38.5 percent decline from **60.5** a day during calendar year 1997.<sup>6</sup> Since September 11, of course, traffic has eroded even further. During the six-month period from October 2001 through March 2002, Decatur averaged 25.1 enplanements a day, 33.1 percent below the 36.1 enplanements a day registered during the corresponding six-month period a year earlier. Traffic has been slowly recovering, but still averaged just 31.6 enplanements a day in March. Under the circumstances, two round trips each weekday and weekend, providing 60 seats in each direction, should easily accommodate demand in the short term.

We will not begin subsidizing service at Decatur before the 90-day period ends on June **13**, **as** the community requests. Under 49 U.S.C. 41734(e), Trans States does not become eligible for subsidy until June 13, and we are not authorized to subsidize its service until then. In addition, we are not prepared at this time to select Trans States to provide long-term subsidized service, at any level, **as** of June 13. Doing so now would circumvent the program's competitive carrier selection process by denying other interested carriers the opportunity to submit proposals to provide service at the community -- potentially better service at less subsidy. Until our normal carrier selection process is completed, we will simply require Trans States to continue operating its current level of service and we will subsidize Trans States for that required service beginning June 13.

We disagree with the Decatur community's contention that its seating requirement is 80 seats a day, rather **than** 67. In considering program seating requirements in 1979, the Civil Aeronautics Board stated that "We have decided to define the level of service in terms of the number of

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<sup>6</sup> Bureau of Transportation Statistics Form 41, Schedule T-100. Enplanements represent one-half of total origin-and-destination traffic, and averages are based on 313 weekdays and weekends a year. See Appendix B for **Trans** States' traffic results since 1997.

passengers to be accommodated rather than seats . . ."<sup>7</sup> Five months later, in Order **80-2-124**, the CAB established Decatur's seating requirement to be that sufficient to accommodate **40** enplanements a day at a 50-percent load factor -- **80** seats. Though the guarantee was, of course, ultimately expressed as a number of seats, it was the number of passengers to be accommodated that represented the defining element.<sup>8</sup>

More importantly, Congress later passed the Airport and Airway Safety and Capacity Expansion Act of **1987**, P.L. **100-223**, which among many things established a 60-percent load-factor standard for **15-seat** or larger aircraft. Under that standard, and with the original **40** enplanements a day unchanged, Decatur's seating guarantee became **67** seats by law. The community argues that we "misstated" Decatur's seating guarantee in Order **2000-4-21** as **67** seats? and that AIR-21 nullified that "misstatement" and now prevents us from lowering the guarantee below the 80 seats that the community believes was in effect on December **29, 1988**. But in this instance the community's reliance on **AIR-21** is misplaced. Our references to **67** seats in both Orders **99-12-21** and **2000-4-21** did not represent any attempt on our part to change the community's seating guarantee, which is still based on **40** enplanements a day. Rather, Congress had already changed it **12** years earlier -- by enacting a statute that mandated a different load-factor standard and ~~thus~~ changing the calculation of the number of seats required to accommodate those 40 enplanements. Orders **99-12-21** and **2000-4-21** represented our first discussions of Decatur's determination since **1980**; insofar as Decatur's seating guarantee was concerned, we were simply accounting for the statutory change that had actually occurred ~~many~~ years earlier.

### **Request for Proposals**

We will also seek proposals, with or without subsidy requests, from carriers interested in providing replacement service at Decatur. We ~~ask~~ that carriers submit their proposals within **20** days of the date of service of this order; we will give full consideration to all proposals that are timely filed. We request proposals that contemplate service frequencies and capacity consistent with the community's determination to the designated hubs of St. Louis and/or Chicago, operated with twin-engine, two-pilot, pressurized aircraft and offering at least **15** passenger seats. **As** always, we will solicit the community's views on any service options we receive before selecting a carrier.

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<sup>7</sup> See **44 FR 52653** (September **7, 1979**). The CAB administered the program until January **1, 1985**, when that responsibility ~~was~~ transferred to the Department of Transportation.

<sup>8</sup> The community notes that Appendix **A**, Page **1**, of Order **80-2-124** specified **80** seats, but overlooks the fact that the same page first specified capacity in each direction for **40** passengers, and then footnoted the 80-seat figure with "Computed as the number of seats needed to accommodate the number of enplanements at a 50% load factor."

<sup>9</sup> The community presumably means to cite Order **99-12-21**, which first stated the seating guarantee as **67** and was the order that **AIR-21** later nullified. Order **2000-4-21** ~~was~~ issued after and in response to AIR-21, though it did reiterate the guarantee as **67** seats.

### **Traffic and Service History**

Decatur's recent traffic and service history are discussed above. Trans States has operated Decatur-St. Louis service for many years. Great Lakes entered the Decatur-Chicago market in 1995, eventually displacing Simmons Airlines, Inc., d/b/a American Eagle. During calendar year 1996, Great Lakes averaged 21.2 enplanements a day.<sup>10</sup> Beginning in May 1997, however, Decatur suffered a hiatus in its service to Chicago when Great Lakes voluntarily suspended service while cooperating with the Federal Aviation Administration to resolve operational deficiencies in its system. Great Lakes eventually resumed Decatur-Chicago service in October 1998, and during the year ended September 30, 1999, averaged 15.9 enplanements a day. As noted earlier, Great Lakes discontinued Decatur-Chicago service in December 1999.

### **Procedures for Filing Replacement Proposals**

For interested carriers unfamiliar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f), and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of ~~Part~~ 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred. However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

### **Other Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.<sup>11</sup> Consequently, all carriers receiving Federal subsidy for essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit

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<sup>10</sup> Great Lakes' traffic data is drawn from Bureau of Transportation Statistics Form 298-C, Schedule T-1

<sup>11</sup> The regulations applicable to these areas are: (1) 49 CFR Part 20 -- New restrictions on lobbying; (2) 49 CFR Part 21 -- Nondiscrimination in federally-assisted programs of the Department of Transportation -- Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 -- Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 - Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements **as well as** copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053.12 The Department is prohibited from paying subsidy to carriers that do not submit these documents.

### **Community and State Comments**

The community and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting rate conferences with all applicants, we will provide a *summary* of the conference results to the civic parties and **ask** them to file their final comments.<sup>13</sup>

**This** order is issued under authority delegated in **49 CFR** 1.56a(f).

### **ACCORDINGLY,**

1. We prohibit Trans States Airlines, Inc., d/b/a American Connection, from suspending service at Decatur, Illinois, at the end of its 90-day notice period, and require it to maintain service at the community, as set forth in Appendix C, for the 30-day period through July 12, 2002, or until a carrier capable of providing reliable essential air service actually begins service, whichever is **first**;<sup>14</sup>
2. We direct Trans States Airlines, Inc., d/b/a American Connection, to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
3. We request that carriers interested in providing essential air service at Decatur, Illinois, submit their proposals, with subsidy requests if necessary, within 20 days after the date of service of this order. Proposals should include all the data required by section 204.4 of the Department's Regulations (14 CFR 204.4). An original and five copies of the proposal should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department

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<sup>12</sup> The certifications are also available on the World Wide Web at <http://ostpxweb.dot.gov/aviation>.

<sup>13</sup> In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service as proposed.

<sup>14</sup> In accordance with 49 U.S.C. 41734(c), we will extend Trans States' service obligation for successive 30-day periods as necessary until replacement service actually begins.

of Transportation, 400 7th Street S.W., Washington, DC 20590, with the title "Proposal to Provide Essential Air Service at Decatur, Illinois, Docket OST-2002-11859";<sup>15</sup>

4. This docket will remain open until further order of the Department; and

5. We will serve copies of this order **on** the mayor and airport manager of Decatur, Illinois; the Decatur Park District; the Illinois Division of Aeronautics; Trans States Airlines, Inc., d/b/a American Connection, and the persons listed in Appendix D.

By:

**READ C. VAN DE WATER**  
**Assistant Secretary for Aviation**  
**and International Affairs**

(SEAL)

*An electronic version of this document is available  
on the World Wide Web at <http://dms.dot.gov>*

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<sup>15</sup> After the proposals have been docketed, Department staff will contact each applicant and direct it to serve a copy of its proposal **on** the civic officials of the community, the state, and the other applicants. All applicants must then file a certificate of service with the Department's Documentary Services Division.

## DECATUR, ILLINOIS, AND THE SURROUNDING REGION





## APPENDIX B

**DECATUR, ILLINOIS  
HISTORICAL ENPLANEMENTS TO/FROM ST. LOUIS**

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**TREND BEFORE SEPTEMBER 11,2001**

	<u>NO.</u>	<u>AVG.</u>	<u>CHANGE</u>
1997	18,932	60.5	
1998	17,548	56.1	{ 7.3 } %
1999	16,337	52.2	{ 6.9 }
2000	13,592	43.4	(16.8)
2001	9,918	31.7	(27.0)
 YE August 31, 2000	 14,842	 47.4	
YE August 31, 2001	11,636	37.2	(21.6)

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**TREND AFTER SEPTEMBER 11,2001**

	<u>2000-01</u>		<u>2001-02</u>		<u>CHANGE</u>
	<u>NO.</u>	<u>AVG.</u>	<u>NO.</u>	<u>AVG.</u>	
October	1,131		579		(48.8) %
November	1,064		562		(47.2)
December	900		600		(33.3)
January	971		672		(30.8)
February	790		680		(13.9)
March	992		821		(17.2)
 Six-month Total	 5,848	 36.1	 3,914	 25.1	 (33.1) %

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**SOURCE: Bureau of Transportation Statistics Form 41, Schedule T-100. Enplanements represent one-half of total origin-and-destination traffic; annual averages are based on 313 weekdays and weekends, and six-month averages on 156 weekdays and weekends.**

APPENDIX C

**TRANS STATES AIRLINES, INC. d/b/a AMERICAN CONNECTION**  
**ESSENTIAL AIR SERVICE TO BE MAINTAINED AT**  
**DECATUR, ILLINOIS**

EFFECTIVE PERIOD	June <b>13,2002</b> , until further Department action
SERVICE	<b>12</b> nonstop Decatur-St. Louis round trips each week
AIRCRAFT TYPE	Jetstream <b>41 (30 seats)</b>
TIMING OF FLIGHTS	Flights must be well-timed <b>and</b> well-spaced to ensure full compensation

## SERVICE LIST FOR THE STATE OF ILLINOIS

Aero Taxi Rockford, Inc.  
Air Casino, Inc.  
Air Wisconsin, Inc.  
Allied Airlines, Inc.  
American Trans Air, Inc.  
AmeriJet International, Inc.  
Bemidji Airlines  
Chicago Air Taxi, Inc.  
Chicago Express Airlines, Inc.  
Corporate Airlines, Inc.  
Delta Connection  
Direct Air, Inc.  
Dwyer Aircraft Sales, Inc.  
Executive Airlines, Inc.  
Florida Air, Inc.  
Gorda Aero Service, Inc.  
Great Lakes Aviation, Ltd.  
Heartland Aviation, Inc.  
Jet Services, Inc.  
Logansport Flying Service, Inc.  
Metroflight, Inc.  
Michigan Airways, Inc.  
Midway Airlines, Inc.  
Midwest Express Airlines, Inc.  
Multi Aero, Inc.  
Northwest Airlink  
Ohio Valley Aviation, Inc.  
Pennsylvania Commuter Airlines, Inc.  
Planemaster Services Inc.  
Redwing Airways, Inc.  
~~Scott~~ Aviation, Inc.  
Shawano Flying Service, Inc.  
Simmons Airlines, Inc.  
Thunderbird Aviation, Inc.  
Trans North Aviation Ltd.  
Trans States Airlines, Inc.  
Welch Aviation, Inc.  
Westward Airways, Inc.  
Wise Aviation Company

Chester Anderson  
Ken Bannon  
Jeff Bell  
Richard Thomas Clarke  
Sabrina Cranor  
Jeff Fonner  
Doug Franklin  
E.B. Freeman  
Douglas Gumula  
A. Edward Jenner  
Dan Katka  
Lee Mason  
John McFarlane  
Tracy Schoenrock  
Edward Wenz  
Gary L. White  
Robert Wigmore